

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

HOLLY ANN SACKS, Individually and as Representative of the Estate of RICHARD TODD SACKS, MELVIN PHILLIP SACKS, and MARILYN PROCTOR,

Plaintiffs

V.

No. 5:04CV73

FOUR SEASONS HOTEL LIMITED §
and FOUR SEASONS PUNTA MITA, §
S.A. de C.V., §

Defendants

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Four Seasons Hotels Limited, a Canadian corporation, and Four Seasons Punta Mita, S.A. de C.V., a Mexican corporation (“Defendants”) filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge’s findings and conclusions.

Defendants object to the Magistrate Judge's recommendation which recommended Defendants' *forum non conveniens* motion be denied and further recommended the Court apply Texas law, over the law of Nayarit, Mexico, to liability and damages issues. Specifically, Defendants object to the Magistrate Judge's findings that (1) Nayarit, Mexico is not an available alternative forum; (2) Nayarit, Mexico is not an adequate alternative forum; (3) the private and public interest factors weigh in favor of keeping Plaintiffs' case in the United States; and (4) the law

of Texas should apply to damages and liability issues.

The Court, having reviewed the Report and Recommendation, the parties' briefing, and the objections, agrees with the Magistrate Judge that Nayarit, Mexico is not an available and adequate alternative forum and that the law of Texas should apply to damages and liability issues. Defendants' objections are without merit. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that Defendants' Motion to Dismiss under the Doctrine of Forum Non Conveniens and Memorandum in Support (Dkt. No. 29) is **DENIED**. It is further

ORDERED that Texas law shall apply to both liability and damages in this case.

SIGNED this 24th day of March, 2006.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE